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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,133	09/26/2003	Stephen A. Ewald	EWAL-0002	6111
23377 7590 07/23/2010 WOODCOCK WASHBURN LLP CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891				
EXAMINER				
FADOK, MARK A				
ART UNIT		PAPER NUMBER		
3625				
MAIL DATE		DELIVERY MODE		
07/23/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/672,133

Applicant(s)

EWALD, STEPHEN A.

Examiner

MARK FADOK

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-16 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-16 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment

The examiner is in receipt of applicant's response to office action mailed 12/30/2009, which was received 6/29/2010. Acknowledgement is made to the amendment to claims 1,9, and 12 the cancellation of claims 4,5,6,17,18 and 19, leaving claims 1-3,7-16 and 20-22 as pending in the instant application. Applicant's amendment and remarks have been carefully considered and were persuasive in regards to the USC 112 rejection, however the amendment and remarks were not persuasive in regards to the USC 103. Therefore the previous office action is restated below modified as necessitated by amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,7-10,12-13,16,20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen (US 6,957,041) and further in view of Bolleman (US 6,286,063) in view of Kesling (US PG PUB 20020132575) and further in view of APA (applicant's admitted prior art in US PG PUB 20050071240, para 0020).

In regards to claims 1,2,7-10,12-13,16,20-22, Christensen teaches system for purchasing goods and services linked with broadcast media, comprising:

one or more broadcast radio receivers configured to receive in-band broadcast radio media (FIG 21, item 200) and

Christensen teaches that information is sent to a receiver using RBDS/RDS which provides the user with the name of the current song being played, but does not explicitly state that the media is in-band within the broadcast media stream. Bolleman teaches RDS and RBDS systems contain broadcast signals that can contain programming signals or information along with the broadcast audio signal and that examples of broadcast systems which can broadcast programming signals along with broadcast audio include digital FM radio (high definition radio), in-band on-channel (IBOC) and Eureka-147. As identified by Bolleman these methods of broadcasting were well known in the art at the time of the instant invention. It would have been obvious to provide the broadcast with the information to purchase the product, since this is a predictable solution and one of ordinary skill in the art at the time of the invention could have pursued this known potential solution with a reasonable expectation of success.

each receiver further configured to selectively receive a purchase request and record the purchase data for goods and services that a person purchases relating to the broadcast media (col 5, lines 1-8);

The combination of Christensen and Bolleman teaches the use of a button to purchase an item (Christensen col 7, lines 10-25) and providing a unique identifier to

each specific broadcast segment, but does not specifically mention wherein the information can be determined when the broadcast radio media does not include explicit information pertaining to purchase of the goods and services. Kesling teaches the use of an identifier that is sent to order or retrieve additional information by simply pressing a button when content is played on a mobile device (Kesling para 0055 and 0060). Kesling also teaches that a display is optional (Kesling para 0008). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in the combination of Christensen and Bolleman wherein the information can be determined when the broadcast radio media does not include explicit information pertaining to purchase of the goods and services as is taught by Kesling, because this will allow the user to purchase or get additional information while driving without having to read the information which may be hazardous (Kesling para 0055) ; and

one or more servers configured to selectively receive and verify purchase data sent from the one or more receivers wherein the purchase data containing information that upon verification at the one or more servers, the purchase accomplishable without further interaction from the person (col 5, lines 8-23) ;

wherein upon verification of the purchase data, the purchased goods and services are directly downloaded to the broadcast radio receiver (col 5, lines 25-30).

Please also note that applicant's own specification states that "the delivery of the goods or service can be accomplished through any method known in the art...direct

download...", which the examiner understands to be applicant's admission that this feature was old and well known in the art at the time of the invention.

Claims 3, 11 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen in view of Bolleman in view of Kesling, in view of APA and further in view of Moskowitz et al.

In regards to claims 3,11, and 15, Christensen teaches recording information for later purchase (col 6, lines 64-67), but does not specifically mention that the information is transmitted at a specific location. Moskowitz teaches storing purchase data and then transmitting the data at a gasoline dispensing device at a specific location (FIG 7). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Christensen transmitting purchase information at a specific location, because this will allow the vehicle download information when the vehicle is outside a broadcast area therefore assure that a transaction might be completed without missing a sale.

Response to Arguments

Applicant's arguments with respect to claims 1-3,7-16 and 20-22 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300 [Official communications; including

After Final communications labeled

"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Mark Fadok/

Primary Examiner, Art Unit 3625